

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**RICKY LABARON POWELL**

**v.**

**Civil No. 1:16-cv-215-HSO  
Criminal No. 1:08cr42-HSO-JMR-1**

**UNITED STATES OF AMERICA**

**CERTIFICATE OF APPEALABILITY**

A final order adverse to the applicant having been filed in the captioned habeas corpus case, in which the detention complained of arises out of a proceeding pursuant to 28 U.S.C. § 2255, the Court, considering the record in this case and the requirements of 28 U.S.C. § 2253, Rule 22(b) of the Federal Rules of Appellate Procedure, and Rule 11(a) of the Rules Governing Section 2255 Proceedings for the United States District Courts, hereby finds that:

A Certificate of Appealability should not issue in this case. Jurists of reason could not conclude that the Court's dismissal on procedural grounds was debatable or incorrect or that the petition states a valid claim of the denial of a constitutional right. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000).<sup>1</sup>

Date: September 20, 2017

*s/ Halil Suleyman Ozerden*

HALIL SULEYMAN OZERDEN  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The Court notes that, in a recent, factually-similar case, the United States Court of Appeals for the Fifth Circuit denied a Certificate of Appealability because the applicant failed to state a valid claim of a constitutional deprivation in light of *Beckles v. United States*, 135 S. Ct. 2551 (2015). *See United States v. Morris*, No. 17-60346 (5th Cir. Sept. 13, 2017).